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**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA**  
**CHAPTER 103**

Statutory Authority: 1976 Code Section 58-3-140

**S.C. LEGISLATIVE COUNCIL**

26 S.C. Code Ann. Regs. 103-800, *et. seq.* Practice and Procedure

2005-354-A

**Preamble:**

In 2004, the General Assembly passed Act. No. 175 which restructured the Public Service Commission. This Act modified the structure of the Agency and its functions and created the Office of Regulatory Staff. Several duties of the Public Service Commission were transferred to the Office of Regulatory Staff on January 1, 2005. The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-800, *et. seq.* (1976 & Supp. 2004) of the Public Service Commission's regulations is to amend Article 8 to conform to the new standards set out by Act 175 of 2004.

**Section-by-Section Discussion**

103-800 Paragraph A is modified to update the regulation for the date of revision.

103-801 The revised rule eliminates the distinction between formal and informal proceedings and renames the regulation.

103-804 This Section reorders the definitions into alphabetical order and conforms definitions to the standards established by Act No. 175.

103-805 This Section is eliminated.

103-811 This Section conforms regulation to provisions of Act No. 175.

103-813 The revision eliminates divisions of the Commission made obsolete by Act No. 175 and conforms remaining definitions to the terms provided by Act No. 175.

103-814 This Section was previously entitled the Office of General Counsel. The Office of General Counsel was eliminated by provisions of Act No. 175. Currently, 103-814 addresses commission meetings and is being amended by deleting the phrase "executive director" and adding the phrase "chief clerk" to conform with Act No. 175. Further, an outdated code citation is eliminated.

103-815 This Section is being renumbered from 103-816 to 103-815.

103-816 This Section was previously numbered 103-817. The revision corrects the Commission's physical address to conform with its present location and also conforms the name of the agency.

103-817 This Section is modified to remove the distinction between formal and informal proceedings and discusses proceedings before the commission. This Section was previously numbered 103-820.

103-818 This Section was previously entitled "Telephone Communications"; the "Telephone Communications" regulation is being deleted because the WATS line is not necessary due to Act No. 175. The revised 103-818 is modified to conform numbering.

103-819 The revision to this regulation removes the distinction between formal and informal proceedings; this Section was formerly numbered 103-830.

103-820 This Section was formerly numbered 103-831 and the word "formal" is eliminated.

103-821 This Section was previously numbered 103-832. This Section is modified to allow for electronic copies of pleadings and such hard copies as may be directed by the Commission.

103-822 This Section was previously numbered 103-833.

103-823 This Section is modified to include an e-mail address as one of the listed parameters for the application and conforms numbering. This Section was previously numbered 103-834.

103-824 This Section removes the distinction between formal and informal proceedings, includes an e-mail address as one of the listed parameters for the complaint and conforms numbering. This Section was previously numbered 103-835.

103-825 This Section was previously numbered 103-836. Additionally, this Section allows objections to petitions to intervene.

103-826 This Section was previously numbered 103-837 and conforms internal numbering.

103-827 This Section replaces the phrase "Commission Staff" with the "Office of Regulatory Staff." This Section was previously numbered 103-838.

103-828 This Section was previously numbered 103-839.

103-829 This Section conforms terminology with Act No. 175 by replacing the phrase "Executive Director" with "Chief Clerk." This revision adds response times to motions and conforms numbering. This Section was previously numbered 103-840.

103-830 This Section conforms terms to Act No. 175 by replacing "Executive Director" with "Chief Clerk." Also, this section provides an alternative method for service of complaints and petitions. This Section was previously numbered 103-841.

103-831 This Section conforms computation of time to standards set by South Carolina Rules of Procedure Rule 6 and it was previously numbered 103-842.

103-832 This Section was formerly numbered 103-850. It also conforms subpoena practice to the South Carolina Rules of Civil Procedure.

103-833 This Section replaces the phrase "Executive Director" with "Chief Clerk." Additionally, this Section was formerly numbered 103-851. This Section also adds a section on Requests for Production of Documents and Things and expands the time to respond to interrogatories. Also, this Section removes the filing requirements of answers to interrogatories with the Commission.

103-834 This Section was formerly numbered 103-852. This Section also adds "commission designee" as one who can give permission for the taking of a deposition.

103-835 This Section was formerly numbered 103-854. This revised Section deletes internal references to Commission regulations.

103-836 This Section removes the term "formal proceedings" and was formerly numbered 103-860.

103-837 This Section replaces the phrase "Executive Director" with "Chief Clerk" and removes the word "formal." This Section was formerly numbered 103-861.

103-838 This Section replaces the phrase "Executive Director" with "Chief Clerk" and this Section was formerly numbered 103-862.

103-839 This Section removes the term "formal" and was formerly numbered 103-863.

103-840 This Section was formerly numbered 103-864 and removes the term "formal."

103-841 This Section removes the term "formal" and was formerly numbered 103-865.

103-842 This Section replaces the phrase "Commission Staff" with the "Office of Regulatory Staff" and was formerly numbered 103-866.

103-843 This Section removes the term "formal" and was formerly numbered 103-867.

103-844 This Section was formerly numbered 103-868 and conforms internal numbering.

103-845 This Section removes the term "formal" and replaces the term "staff" with the phrase "Office of Regulatory Staff." This Section was previously numbered 103-869.

103-846 This Section was formerly numbered 103-870 and is modified to conform to South Carolina Rules of Evidence.

103-847 This Section was formerly numbered 103-871 and removes the term "formal."

103-848 This Section was formerly numbered 103-872.

103-849 This Section was formerly numbered 103-873.

103-850 This Section removes the term "formal" and was formerly numbered 103-874.

103-851 This Section removes the thirty-day limitation from regulation and expands the role of proposed orders. This Section was formerly numbered 103-875.

103-852 This Section replaces the phrase “Executive Director” with “Chief Clerk” and adds the availability of registered mail for service of orders. This Section was formerly numbered 103-876.

103-853 This Section was previously entitled “Data Request.” The Commission Staff no longer issues data requests. The new title for this Section is Finality of Decision. The “Finality of Decision” regulation was formerly numbered 103-880. The revised Section removes the word “formal” and modifies the effective date of orders and conforms numbering.

103-854 This Section was formerly numbered 103-881.

103-855 This Section was formerly numbered 103-882 and internal numbering is modified to conform to new numbering of regulations.

103-856 This Section was formerly numbered 103-883 and internal numbering is modified to conform to new numbering of regulations.

103-857 This Section was formerly numbered 103-884.

103-858 This Section was formerly numbered 103-885.

103-859 This Section replaces the phrase “Commission Staff” with “Office of Regulatory Staff” and was formerly numbered 103-886.

#### **Notice of Public Hearing and Opportunity for Public Comment:**

Interested persons may submit written comments to the Public Service Commission, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2005-354-A. To be considered, comments must be received no later than 4:45 p.m. on January 31, 2006. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on **February 2, 2006, at 2:30 p.m.** in the Commission’s Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

#### **Preliminary Fiscal Impact Statement:**

There will be no increased costs to the State or its political subdivisions.

#### **Statement of Need and Reasonableness:**

This statement of need and reasonableness was determined pursuant to S.C. Code Ann. Section 1-23-115(C)(1) through (3) and (9) through (11).

**DESCRIPTION OF REGULATION:** 26 S.C. Code Ann. Regs. 103-800, *et. seq.*

Purpose: 2004 S.C. Acts No. 175 modified the structure of the Public Service Commission and its functions and created the Office of Regulatory Staff. Several duties of the Commission Staff were transferred to the Office of Regulatory Staff on January 1, 2005. The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-800, *et. seq.* (1976 & Supp. 2004) is to amend Article 8 to conform to the new standards set out by Act 175 of 2004. The Commission in its restructuring is more judicial in nature. Thus, the Commission’s regulations governing practice and procedure in some instances are also being revised to conform to procedures set out in the South Carolina Rules of Civil Procedure.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2004)

Plan for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED  
REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

Due to the major restructuring of the Public Service Commission and its governing statutes, the Commission regulations should be consistent with the recent revisions in Title 58 of the South Carolina Code. Some of the proposed changes to the regulations conform existing Commission practices to the South Carolina Rules of Civil Procedure which assist practitioners who appear before the Public Service Commission.

**DETERMINATION OF COSTS AND BENEFITS:**

Although costs related to amending Article 8 are minimal, the benefits include increased efficiency in practice and procedure before the Commission and regulations that conform with Title 58 of the South Carolina Code.

**UNCERTAINTIES OF ESTIMATES:**

None.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

None.

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE  
REGULATION IS NOT IMPLEMENTED:**

The amended regulations will have no detrimental effect on the environment and public health if the regulation is not implemented.

**STATEMENT OF RATIONALE:**

The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-800, et. seq. is to conform the Public Service Commission's Practice and Procedure regulations with Act No. 175 of 2004. There was no scientific or technical basis relied upon in the development of this regulation.

**Text:**

**ARTICLE 8**

**PRACTICE AND PROCEDURE**

**EDITOR'S NOTE**

Regulations 103-800 to 103-885 were adopted December 31, 1976.

**SUBARTICLE 1**

**GENERAL**

#### **103-800. Authorization.**

A. In accordance with provisions of law, the Public Service Commission has adopted the following rules and regulations and fixed the following standards to govern the practice and procedures of parties before it, effective January 1, 2005 (or whenever the revised regulations go into effect). All previous rules or standards of practice and procedure are hereby revoked, annulled and superseded.

B. The adoption of these rules shall in no way preclude the Public Service Commission from altering, amending or revoking them in whole or in part, or from making additions thereto, pursuant to provisions of law, upon petition of a proper party or upon its own motion.

C. The adoption of these rules of practice and procedure shall not relieve either the Commission or any party participating in proceedings before it of any duties prescribed under the laws of this State.

#### **103-801. Application of Rules.**

These rules shall apply to any person who participates in proceedings before the Public Service Commission.

#### **103-804. Definitions.**

The following words and terms, when used in the context of these rules and regulations, shall have the meanings indicated.

A. Applicant. A party on whose behalf an application is made to the Commission for any permission or authorization which the Commission may grant pursuant to statutory or other proper authority.

B. Commission and Commissioner. The South Carolina Public Service Commission and a Commissioner thereof, respectively.

C. Complainant. A party who complains to the Commission of anything done, or omitted to be done, in contravention or violation of the provisions of any statute or other delegated authority administered by the Commission, or of any order, rule or regulation issued or promulgated thereunder, or any other alleged wrong within the jurisdiction of the Commission.

D. Defendant. A party subject to statute or other delegated authority administered by the Commission, or any order, rule or regulation issued or promulgated thereunder, against whom any complaint is filed.

E. Formal Record. The documentation pertaining to a proceeding before the Commission, including the following: the designation of the presiding officer; proofs of publication and notification; all pleadings and intermediate rulings; the transcript or official recording of hearing which shall include all evidence received or considered; a statement of matters officially noticed; all questions and offers of proof, objections and rulings thereof; proposed findings and exceptions, if any; any decision, opinion or report by the presiding officer; all memoranda or data submitted to the hearing officer or members of the Commission in consideration of a proceeding; and the order making final disposition of the matter.

F. Hearing Examiner. A member of the Commission staff, duly appointed and designated by the Commission to serve as a presiding officer for a proceeding before the Commission, and so serving as a presiding officer.

G. Hearing Officer. An attorney qualified to practice in all courts of this State with a minimum of eight years' practice experience employed by the Commission to hear and determine procedural motions or other matters not determinative of the merits of the proceedings and made prior to the hearing. At the hearing, a hearing officer shall make all rulings on nondispositive motions and objections. The hearing officer has full authority, subject to being overruled by the Commission, to rule on questions concerning the conduct of the case and the admission of evidence but may not participate in the determination on the merits of the case. If qualified, a Commission staff attorney may serve as a hearing officer.

H. Intervenor. A person who files a petition to intervene in a proceeding before the Commission, as provided by R. 103-825, and after such petition is approved by the Commission or presiding officer. Admission as an intervenor shall not be construed as recognition by the Commission that such intervenor might be aggrieved by any order of the Commission in such proceeding.

I. Notice of Filing.

(1) A statement prepared by the Chief Clerk upon the filing of a pleading which initiates a proceeding, and which is provided to the party submitting the pleading. The Notice of Filing shall be published pursuant to R. 103-821A and shall otherwise be processed according to the Commission's Rules and Regulations concerning specific persons within the Commission's jurisdiction.

(2) The Notice of Filing shall contain a brief description of the pleading, reference to the statutory or other legal authority under which the pleading was filed, and the manner in which interested persons may file petitions to intervene or protests, and the return date.

J. Notice of Hearing.

(1) A statement prepared by the Chief Clerk which provides certain information relative to the public hearing scheduled in a proceeding before the Commission, and submitted to all parties in that proceeding. The Notice of Hearing shall be published, pursuant to applicable provisions of law.

(2) A Notice of Hearing shall include the following items of information:

(a) A statement of the date, time, and place of the public hearing;

(b) A reference to the legal authority under which the proceeding was instituted;

(c) A description of the subject and issues involved, and, in a rulemaking proceeding, the terms or substance of the proposed rule.

(3) At its discretion, the Commission may consolidate a Notice of Hearing with a Notice of Filing, and issue a Notice of Filing and Hearing, if the public interest so requires.

K. Order. A written decision or opinion issued by the Commission representing the whole or any part of the disposition (whether affirmative, negative, injunctive or declaratory in form) of a

proceeding before the Commission.

L. Party or Party of Record. A party in a proceeding before the Commission who is entitled to receive all documentary materials, pleadings, orders or other dispositions of matters relevant to the proceeding. Parties of record will include applicants, complainants, defendants, respondents, and intervenors. Parties of record may file a petition for rehearing of Commission orders, pursuant to R. 103-853 et seq. The Office of Regulatory Staff shall be considered a party of record for the purposes of filing and receipt of pleadings and documentary materials, data requests, and for the conduct of proceedings.

M. Person. Any individual, partnership, corporation, association, establishment, limited liability companies, limited partnership, entities, governmental subdivision, or public or private organization of any character.

N. Petitioner. A party seeking relief from the Commission, and not otherwise designated herein.

O. Pleading. A document seeking relief in a proceeding before the Commission, including complaint, answer, application, protest, request, motion (other than an oral motion made during a proceeding) or petition.

P. Presiding Officer. A Commissioner or a hearing examiner appointed and duly designated by the Commission, who presides at proceedings before the Commission.

Q. Proceeding. The general process of the Commission's determination of the relevant facts and the applicable law, the consideration thereof and the action thereupon in regard to a particular subject matter within the Commission's jurisdiction, initiated by the filing of an appropriate pleading or issuance of a Commission order or rule to show cause or by the receipt of written communication.

R. Protestant. An individual objecting on the ground of private or public interest to the approval of an application, petition, motion or other matter which the Commission may have under consideration. A protestant may offer sworn testimony without the privilege of cross-examination of witnesses offered by other parties. A protestant desiring to become an intervenor in a proceeding before the Commission may file a petition for intervention.

S. Public Records.

(1) Those official items of information within the files of the Commission which are available for inspection by the public. Public records include:

(a) Applications, complaints, petitions and other papers seeking Commission action;

(b) Financial, statistical and other reports to the Commission; rates and rate schedules; any other filings and submittals to the Commission in compliance with the requirement of any statute, Commission order, rule or regulation;

(c) All pleadings, notices, depositions and formal records in proceedings before the Commission;

(d) Any proposed testimony or exhibit filed with the Commission but not yet offered or received in evidence;

(e) All Commission orders, notices, findings, opinions, determinations, and other actions in proceedings and all Commission minutes which have been approved and filed with the Chief Clerk;

(f) All Commission correspondence relating to any furnishing of data or information;

(g) Commission correspondence relating to the interpretation or applicability of any statute, rule, regulation or order issued or administered by the Commission and letters of opinion on those subjects signed by Staff Counsel and sent to others than the Commission, a Commissioner, or any of the Commission's staff;

(h) Copies of all filings, certifications, pleadings, records, briefs, orders, judgments, decrees and mandates in court proceedings in which the Commission is a party and all correspondence with the Courts or clerks of court.

(2) The term Public Records does not include any information specifically exempted by statute or Commission order.

(3) Public Records are available for public inspection at the offices of the Commission, during the Commission's business hours. Copies of public records may be made available by the Chief Clerk for a reasonable charge.

#### T. Representation.

(1) The act of serving as counsel for a party, or of serving as the authorized representative of a party, in a proceeding before the Commission. Representation of a party of record in a proceeding shall include the right to offer evidence on behalf of the party represented and to cross-examine witnesses offered by other parties. Those persons who may act in a representative capacity are the following:

(a) An individual may represent himself or herself in any proceeding before the Commission.

(b) An attorney authorized to practice law in the State of South Carolina may represent a party in any proceeding before the Commission. An attorney not authorized to practice before the courts of the State of South Carolina but authorized to practice before the courts of any other State may represent a party in any formal proceeding before the Commission upon association with an attorney admitted to practice before the courts of South Carolina.

(2) All persons acting in a representative capacity before the Commission shall be subject to any limitation imposed by statute or other proper authority.

U. Respondent. A party subject to any statute or other delegated authority administered by the Commission to whom an order, notice or rule to show cause is issued by the Commission instituting an investigation or a proceeding.

V. Rule. The whole or any part of a Commission statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure or practice requirements of the Commission.

W. Rulemaking. The Commission process for the formulation, amendment or repeal of a rule.



X. Rule to Show Cause. An order issued by the Commission instituting a proceeding against a person under the Commission's statutory authority. Such rule shall set forth the grounds for such action, and will contain a statement of the particulars and matters concerning which the Commission seeks to inquire and which shall be deemed to be tentative and for the purpose of framing issues for consideration and decision of the Commission in the proceeding. Such rule shall require that the respondent named respond in writing, as the Commission may direct.

Y. Staff Counsel. Legal Counsel of the Commission and Commission Staff.

## **SUBARTICLE 2**

### **OPERATION AND ORGANIZATION OF THE COMMISSION**

#### **103-811. Commissioners.**

The membership of the Commission is composed of seven Commissioners, each elected for a term of four years by the South Carolina General Assembly upon nomination of the State Regulation of Public Utilities Review Committee, one from each of six Commission Districts and one at-large, pursuant to S.C. Code Ann. Section 58-3-20.

Beginning in 2004, the members of the Public Service Commission must be elected to staggered terms. In 2004, the members representing the second, fourth, and sixth congressional districts must be elected for terms ending on June 30, 2006, and until their successors are elected and qualify. In 2004, the members representing the first, third, and fifth congressional districts and the State-at-large must be elected for terms ending on June 30, 2008, and until their successors are elected and qualify. Thereafter, members representing the first, third, and fifth congressional districts and the State-at-large must be elected to terms of four years and until their successors are elected and qualify. Thereafter, members representing the second, fourth, and sixth congressional districts must be elected to terms of four years and until their successors are elected and qualify.

#### **103-813. The Commission Staff.**

The Commission is authorized and empowered to employ a chief clerk and deputy clerk; a commission attorney and assistant commission attorneys; hearing officers; hearing reporters; and such other professional, administrative, technical, and clerical personnel as the commission determines to be necessary in the proper discharge of the commission's duties and responsibilities as provided by law.

#### **103-814. Commission Meetings.**

Formal meetings of the Commission are held on a weekly basis, or at the call of the chairman or at the call of a majority of the Commission, for the purposes of formulating decisions, composing orders, planning and coordinating the work of the Commission, and conferring with the Commission staff. The Chief Clerk shall be responsible for the arrangement of the agenda of matters to be considered at Commission meetings. All Commission meetings and executive sessions are conducted in accordance with the terms of S.C. Code Ann., Section 30-4-10 et. seq.

#### **103-815. Office Hours.**

The offices of the Commission will be open for business daily during the hours between 8:15 A. M. and 4:45 P. M., Monday through Friday, subject to the observance of State holidays.

**103-816. Written Correspondence.**

All written communications should be directed to the following address:

The Public Service Commission of South Carolina

Post Office Drawer 11649

Columbia, South Carolina 29211

Or hand-delivered to the Commission's street address:

Synergy Business Park

101 Executive Center Drive

Columbia, South Carolina 29210-8411

**SUBARTICLE 3**

**PROCEEDINGS**

**103-817. Proceedings.**

A. Nature of Proceedings. If required by law and upon filing of a pleading as set forth in R. 103-821A, proceedings for the purpose of rulemaking, ratemaking, licensing, determining rights, duties, or privileges of any party, and undertaking an official inquiry for the purposes of gathering information or making determinations, which fall under the jurisdiction of the Commission, shall be conducted by one or more Commissioners, or by a hearing examiner through the development of a formal record.

B. Initiation of Proceedings.

(1) All proceedings shall be initiated by filing with the Chief Clerk at his business offices at the Commission an original and copies, as determined by the Commission, of an appropriate pleading unless otherwise provided, as designated in R. 103-819, et seq.

(2) The Chief Clerk may refuse to accept for filing any pleading which does not conform to the rules of the Commission, and shall mail written notice to the party or his authorized representative within ten days after receipt, stating why it has not been accepted for filing.

C. Conduct of Proceedings.

(1) All pleadings initiating proceedings shall be dated upon receipt and shall be assigned a docket number after filing, and all subsequent pleadings or correspondence shall refer to that docket number. Pleadings will be captioned in accordance with R. 103-819, et seq., and shall be processed pursuant to these rules.

(2) The Chief Clerk after filing of the pleadings shall give the Commission notice of such filing at the next regular meeting of the Commission. Where provided by law, any proceeding initiated under these rules may be disposed of without hearing by Order of the Commission within 14 days after the pleading has been accepted for filing, upon the written opinion of the Commission that the pleading on its face shows that a hearing is not necessary, in the public interest, or for the protection of substantial rights.

(3) After any pleading has been accepted for filing, the Chief Clerk may:

(a) Serve the pleadings, as required, in accordance with R.103-830, or within fourteen (14) days, provide the party filing the pleading a Notice of Filing, and, where required by law, the party at its own expense shall publish such notice one time in newspapers having general circulation in the State, or, if applicable, in newspapers having general circulation in the party's service area. Except for good cause shown, proof of publication must be filed on or before the return date. The Chief Clerk, pursuant to other rules of the Commission, may require that the Notice of Filing be mailed to customers and other persons and a certificate of mailing be filed on or before the return date.

(b) Fix a date for hearing, as soon as practicable, and when a date is available on the docket calendar. If the hearing date has not been included in the Notice of Filing, the Chief Clerk shall prepare a Notice of Hearing, and shall forward by certified mail such Notice of Hearing to all parties. Proof of mailing must be placed in the formal record.

(c) Assign a time and place for any public hearing necessary in the conduct of any proceeding. The Chief Clerk shall likewise cause the pleadings to be served pursuant to these rules or issue written notice of the filing of pleadings which shall be published pursuant to law, and notice of the hearing date assigned for the conduct of any formal proceeding, as provided by law.

(d) Require from a person filing a pleading a letter incorporating a statement presenting the number of witnesses the person expects to offer in the proceeding and an estimate of the time required for the presentation of testimony and exhibits.

(4) Public hearings in the conduct of proceedings shall be held pursuant to R. 103-836, et seq.

D. Final Disposition of Proceedings. Proceedings shall be concluded upon the issuance of an order by the Commission or upon a settlement or agreement reached by all parties to the proceedings and formally acknowledged by the Commission by issuance of an order.

#### **103-818. Rulemaking proceedings.**

A. Nature of Rulemaking Proceedings. When permitted by law, and upon the filing of a pleading, proceedings for the purpose of rulemaking shall be conducted by one or more Commissioners or by a hearing examiner through the development of a formal record.

B. Initiation of Rulemaking Proceedings. Rulemaking proceedings shall be initiated by the process identified in R. 103-817B.

C. Conduct of Rulemaking Proceedings.

(1) Pleadings filed with the Commission initiating rulemaking proceedings shall be processed as

in proceedings, pursuant to R. 103-817C(1) and (2).

(2) General notice of proposed rulemaking proceedings shall be made in accordance with applicable provisions of law.

(3) The Commission shall provide an opportunity to interested parties for participation in the rulemaking proceeding through submission of written data, views or arguments with or without opportunity for oral presentation.

D. Final Disposition of Rulemaking Proceedings. Rulemaking proceedings shall be concluded upon the issuance of an order by the Commission issuing, amending, or repealing a rule or rules, and containing a concise general statement of the basis and purpose of such rule or rules. Publication of such rule or rules shall be made in accordance with applicable provisions of law.

## **SUBARTICLE 4**

### **PLEADINGS**

#### **103-819. General Contents of Pleadings.**

All pleadings in proceedings before the Commission to which docket numbers have been assigned shall prominently display such docket numbers. All pleadings shall also include the following information:

- A. The legal name and address of each person by whom such pleading is filed;
- B. The full name and address of the authorized representative of the person filing the pleading;
- C. A concise and cogent statement of the facts such person is prepared to present to the Commission;
- D. A statement identifying the specific relief sought by the person filing the pleading.

#### **103-820. General Form of Pleadings.**

All pleadings filed in proceedings before the Commission should be typewritten on paper cut or folded to letter size (8 to 8 1/2 inches wide by 10 1/2 to 11 inches long) with a left-hand margin not less than 1 1/2 inches wide and other margins not less than 1 inch wide. The impression shall be on one side of the paper only.

#### **103-821. Copies of Pleadings.**

Pleadings shall be filed in one original and copies, as determined by the Commission, unless otherwise specified by the Chief Clerk. In addition, where practicable, an electronic copy of the pleadings shall be served on the Chief Clerk and all parties according to such procedures as may be directed by the Commission. Mimeographed or photocopied copies will be accepted as typewritten, provided all copies are clearly legible.

#### **103-822. Signature and Verification.**

All pleadings filed with the Commission shall be signed. The signature of the person, or its

authorized representative, submitting the pleading, shall constitute an admission that such person or representative has read the pleading and knows the contents thereof, and, if the signatory is acting in a representative capacity, that such signatory has the capacity and authority specified therein. A verification under oath shall be required if facts are alleged to be true within the knowledge of the person filing the pleading.

#### **103-823. Applications.**

Applications are submitted to the Commission for any authorization or permission which the Commission is empowered to grant under its statutory authority, including applications for establishment or adjustment of rates and charges.

A. Content of Applications. Applications shall state clearly and concisely the authorization or permission sought, and shall refer to the specific statutory provision or other authority under which Commission authorization or permission is sought. Applications shall further set forth the following information:

(1) The precise legal name of the applicant, which shall indicate whether the applicant is a partnership, corporation, association, establishment, governmental subdivision, or other public or private organization.

(2) The name, title, address, e-mail address, and telephone number of the person to whom correspondence or communications relative to the application is to be addressed.

(3) The following data, in general rate establishment or adjustment applications, attached as exhibits and developed for a historic twelve-month test period unless otherwise directed:

(a) Balance sheet;

(b) Profit and loss statement;

(c) Accounting and pro forma adjustments;

(d) Computation of proposed increase or decrease;

(e) Effect of proposed increase or decrease to include copies of present and proposed tariffs;

(f) Statement of fixed assets and depreciation reserve;

(g) Rates of return on rate base and on common equity.

(4) All other information required by statute or by the Commission's Rules and Regulations under which a specific type of application is filed, or as may be required by the Commission in a particular proceeding.

B. Form of Applications. Except where otherwise prescribed by the Rules and Regulations of the Commission under which a specific type of application is filed, applications shall conform to the requirements of R. 103-819 through R. 103-822.

#### **103-824. Complaints.**

Any person complaining of anything done or omitted to be done by any person under the statutory jurisdiction of the Commission in contravention of any statute, rule, regulation or order administered or issued by the Commission, may file a written complaint with the Commission, requesting a proceeding.

A. Contents of Complaints. A written complaint filed with the Commission shall contain the following information:

(1) The name, address, e-mail address, and telephone number of the person making the complaint and of his authorized representative, if he is represented.

(2) The name and address of the person about whom the complaint is made.

(3) A concise and cogent statement of the factual situation surrounding the complaint. If a complaint relates to an act, rule, regulation or order administered or issued by the Commission, or to a provision in a tariff or contract on file with the Commission, the act, rule, regulation, order, tariff or contract should be specifically identified in the complaint.

(4) A concise statement of the nature of the relief sought.

B. Form of Complaints. A complaint filed pursuant to this section shall conform to the requirements of R. 103-819 through R. 103-822.

C. Joinder of Complaints. Two or more grounds of complaint concerning the same subject or set of facts may be included in one complaint, but should be separately stated and numbered. Two or more complainants may join in one complaint if their respective causes of complaint are against the same defendant or defendants, and if they involve substantially the same purpose, subject or set of facts.

#### **103-825. Petitions.**

Petitions may be submitted to the Commission for any relief, other than for an adjustment of rates and charges, which the Commission is empowered to grant under its statutory authority. Petitions which may be filed include: Petition for Rulemaking, Petition for a Declaratory Order, Petition to Intervene, Petition for Rehearing or Reconsideration, and Petition for a Rule to Show Cause.

A. Content of Petitions. Petitions shall state clearly and concisely the petitioner's grounds of interest in the subject matter, the facts relied upon, and the relief sought. Petitions shall cite by appropriate reference the statutory provision or other authority relied upon for relief. The following requirements are applicable to specific types of Petitions:

(1) A Petition for Rulemaking shall set forth clearly and concisely:

(a) The petitioner's interest in the subject matter;

(b) The specific rule, amendment, waiver or repeal requested;

(c) The statutory provision or other authority therefore;

(d) The purpose of, and the grounds requiring, the proposed rulemaking.

(2) A Petition for Declaratory Order to determine applicability of any statute or of any rule or order of the Commission shall state clearly and concisely:

- (a) A full disclosure of the petitioner's interest;
- (b) The uncertainty which is the subject of the petition;
- (c) The statutory provision or other authority involved;
- (d) A complete statement of the facts prompting the petition.

(3) A Petition to Intervene in a proceeding before the Commission shall set forth clearly and concisely:

- (a) The facts from which the nature of the petitioner's alleged right or interest can be determined;
- (b) The grounds of the proposed intervention;
- (c) The position of the petitioner in the proceeding.

Objections to a Petition to Intervene shall be filed with the Commission within ten days of service of the Petition to Intervene.

(4) A Petition for Rehearing or Reconsideration shall set forth clearly and concisely:

- (a) The factual and legal issues forming the basis for the petition;
- (b) The alleged error or errors in the Commission order;
- (c) The statutory provision or other authority upon which the petition is based.

B. Form of Petitions. With the following exception for Petitions to Intervene, all petitions shall conform to the requirements of R. 103-819 through R. 103-822. Handwritten Petitions to Intervene may be accepted by the Commission, if legible.

#### **103-826. Answers.**

Answers are submitted to the Commission in response to complaints and petitions, and to Rules to Show Cause issued by the Commission. Answers are not required to Petitions for Rehearing or Reconsideration.

##### **A. Content of Answers.**

(1) Answers shall be drawn so as to advise fully and completely the Commission and any party as to the nature of the defense. Answers shall admit or deny, specifically and in detail, each material allegation of the pleading answered, and shall state clearly and concisely the facts and law relied upon.

(2) In an answer to a Rule to Show Cause, mere general denials of the allegations contained in the rule which are unsupported by specific facts will not be considered as complying with this section and may be deemed a basis for entry of a final order without hearing, unless otherwise required

by law, on the ground that that answer has raised no issue requiring a hearing or further proceeding.

B. Form of Answers. Except as provided in R. 103-826 all answers shall conform to the requirements of R. 103-819 through R. 103-822.

#### **103-827. Protests.**

A. In General. A protest is intended to advise the Commission and all parties to a proceeding before the Commission of the fact and character of the protestant's objection to part or all of the subject matter of the proceeding. The filing of a protest does not make the protestant a party of record. The protest will be placed in a public file associated with, but not part of the formal record, and will be available for such further exploration of the substantive matters raised therein by the Office of Regulatory Staff and other parties as may be appropriate.

B. Form of Protests. No specific form of protest shall be required. The letter or writing should contain the name and address of the protestant, the proceeding or matter to which the protest is addressed, a concise statement of the protest, and whether the protestant wishes to make an appearance at a hearing, if scheduled.

#### **103-828. Amendments.**

Any modification or supplement to a pleading shall be deemed an amendment to the pleading, and shall comply with the particular requirements of content and form for the type of pleading so amended. Upon its own motion or upon motion duly filed by a party of record, the Commission may for good cause decline to permit, or may strike in whole or in part, any amendment. No amendment to a pleading may be filed within ten (10) days prior to the commencement of or during a hearing unless directed or permitted by the Commission or presiding officer after opportunity for all parties of record to be heard thereon.

#### **103-829. Motions.**

A. Motions, except those made during hearings, will be reduced to writing and filed with the Chief Clerk at least ten (10) days prior to the commencement of a hearing. Responses to such motions are due within ten days after service of said motions. Replies to responses to motions shall be filed with the Commission within five days of service of the response. These times may be modified by order of the Commission or its designee for good cause. Written motions to quash a subpoena will be made pursuant to R. 103-832G.

B. The Commission, in its discretion and upon due notice to all parties of record, may entertain oral argument and response on prefiled motions in advance of the scheduled hearing in the proceeding to which the motions pertain. Otherwise, such argument and response shall be made at the commencement of the hearing. The presiding officer may make a ruling upon such motion at the completion of oral argument, at the conclusion of the hearing, or in the written order making disposition of the subject matter of the proceeding.

#### **103-830. Filing and Service of Pleadings.**

All pleadings shall be filed with the Chief Clerk of the Commission and served on the Office of Regulatory Staff.



A. Service of Applications. If a person other than the applicant is named in an application, the Chief Clerk will cause to be mailed to that person a copy of the notice of filing within ten days of the filing date. The person, other than the applicant, shall file its answer, if required, within twenty days of the receipt of the notice of filing.

B. Service of Complaints and Answers.

(1) A complainant requesting a hearing shall file the complaint with the Chief Clerk. The complainant, on behalf of the Chief Clerk, may serve the complaint in conformance with the South Carolina Rules of Civil Procedure and shall furnish proof of service to the Chief Clerk within ten days of service. In the alternative, the Chief Clerk shall mail a copy of the complaint to the defendant at the address provided in the defendant's last annual report filed with the Commission or at such other address as may be known if there is no annual report, within 14 days of filing. The complainant shall inform the Chief Clerk as to which method of service is to be employed at the time of the filing of the complaint.

(2) The defendant shall serve its answer on the complainant and shall file its answer with certification of service with the Commission within 30 days of receipt of the complaint, unless an extension of time is granted for good cause shown. Any defendant failing to file its answer within such period, unless an extension of time is granted, shall be deemed in default and all relevant facts stated in such complaint may be deemed admitted.

C. Service of Petitions and Answers.

(1) If a person other than the petitioner is named in a petition for a declaratory order or in a petition for a rule to show cause, the petitioner, on behalf of the Chief Clerk, may serve the petition in conformance with the South Carolina Rules of Civil Procedure and shall furnish proof of service to the Chief Clerk within ten days of service. In the alternative, the Chief Clerk shall cause a copy of the petition to be mailed to such named person at the address provided in the defendant's last annual report filed with the Commission or at such other address as may be known if there is no annual report within 14 days of the filing of the petition. The petitioner shall inform the Chief Clerk as to which method of service is to be employed at the time of the filing of the petition.

(2) The person named in a petition for a declaratory order or in a petition for a rule to show cause shall serve its answer on the petitioner and shall file its answer with certification of service with the Chief Clerk within 30 days of the receipt of the petition from the Chief Clerk unless an extension of time is granted for good cause shown.

(3) A person filing a petition to intervene or a party of record filing a petition for rehearing or reconsideration shall file the petition with certification that service of the petition has been made on all parties of record. The Chief Clerk shall make available to the person seeking to intervene a service list consisting of the names of all parties of record.

D. Service of Amendments. Any amendment to a pleading shall be served and answered, if applicable, according to the requirements specified herein for the type of pleading sought to be amended.

**103-831. Computation of Time.**

The computation of time shall be governed by Rule 6 of the South Carolina Rules of Civil

Procedure. Extensions of time may be granted by the Commission for good cause shown.

## **SUBARTICLE 5**

### **SUBPOENAS; INTERROGATORIES; DEPOSITIONS; DATA REQUESTS**

#### **103-832. Subpoenas and Subpoenas Duces Tecum.**

Subpoenas and Subpoenas Duces Tecum shall be issued and served in a manner consistent with the South Carolina Rules of Civil Procedure.

#### **103-833. Written Interrogatories and Request for Production of Documents and Things.**

A. Any material relevant to the subject matter involved in the pending proceeding may be discovered unless the material is privileged or is hearing preparation working papers prepared for the pending proceeding.

B. Unless under special circumstances and for good cause shown, written interrogatories shall not be served less than 10 days prior to the date assigned for commencement of hearing. Any party of record may serve upon other parties or parties of record written interrogatories to be answered by the party served. If the party served is a public or private corporation, partnership, association, or governmental agency, any officer or agent who possesses the desired information may respond to the interrogatories. Copies of interrogatories served shall also be filed with the Chief Clerk. Each interrogatory shall be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the individual making them and subscribed by an appropriate verification. Objections are to be signed by the authorized representative or individual making them. The person upon whom the interrogatories have been served shall serve a copy of the answers and objections within the time period designated by the party of record submitting the interrogatories, but not less than 20 days after the service thereof, unless the time is extended by the Commission for good cause shown.

C. Unless under special circumstances and for good cause shown, requests for production of documents and things shall not be served less than 10 days prior to the date assigned for commencement of hearing. Any party of record may serve upon other parties or parties of record requests for production of documents and things to be answered by the party served. If the party served is a public or private corporation, partnership, association, or governmental agency, any officer or agent who possesses the desired information may respond to the requests for production of documents and things. Copies of requests for production of documents and things served shall also be filed with the Chief Clerk. Each request for production of documents and things shall be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the individual making them and subscribed by an appropriate verification. Objections are to be signed by the authorized representative or individual making them. The person upon whom the requests for production of documents and things have been served shall serve a copy of the answers and objections within the time period designated by the party of record submitting the requests for production of documents and things, but not less than 20 days after the service thereof, unless the time is extended by the Commission for good cause shown.

#### **103-834. Depositions.**

Any party of record to a proceeding may, by written request, ask the Commission or its designee

for leave to take the testimony of any witness by deposition. The request shall set forth the facts the requesting party seeks to establish by the deposition. Such written request shall be filed with the Commission at least 10 days prior to the commencement of the scheduled hearing. The requesting party shall give notice by providing a copy of the written request to each party of record to the proceeding. If the Commission or its designee deems the request meritorious, it may issue an Order designating the individual whose deposition may be taken, specifying the subject matter of the examination, and setting forth the time and place of such deposition, and whether it shall be written or oral examination. All costs incidental thereto shall be paid by the party desiring such deposition. If the request is not deemed meritorious, the written request shall be denied by Order or otherwise.

#### **103-835. Other Discovery Procedures**

The S. C. Rules of Civil Procedure govern all discovery matters not covered in Commission Regulations.

### **SUBARTICLE 6**

#### **HEARINGS**

#### **103-836. How Hearings are Set.**

The Commission will assign a time and place for hearing and shall give notice thereof as required by law.

#### **103-837. Hearing Calendar.**

The hearing calendar will be posted in the office of the Chief Clerk of the Commission and shall be available for inspection by the public during the office hours of the Commission. Proceedings pending upon this calendar will be heard in their order of assignment, so far as practicable, at the times and places fixed, provided, however, in its discretion, with or without motion, the Commission may, at any time with reasonable notice to the parties, advance or postpone any proceeding on the hearing calendar.

#### **103-838. Continuance.**

Any party of record desiring a continuance shall, immediately upon receipt of notice of the hearing or as soon thereafter as facts requiring such continuance come to its knowledge, notify the Chief Clerk, stating in detail the reasons why such continuance is necessary. Unless good cause is shown, no such continuance shall be granted.

#### **103-839. Prehearing Conferences.**

A. Purposes. Upon written notice by the Commission in any proceeding, parties of record or their authorized representative may be directed to meet before a designated staff member at a specified time and place for a conference, prior to a hearing, for the purpose of formulating issues, and considering:

- (1) The simplification of issues;
- (2) The necessity or desirability of amending the pleadings for the purposes of clarification,

amplification or limitation;

(3) The possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;

(4) Limitations on the number and consolidation of the examination of witnesses;

(5) The procedure at the hearing;

(6) The distribution of written testimony and exhibits to the parties prior to the hearing;

(7) Any other matters as may aid in the disposition of the proceeding, or settlement thereof.

**B. Report of Stipulations.** Following the prehearing conference, a proposed Report of Stipulations, reciting the action taken at the conference, amendments allowed to the pleadings, if any, and agreements, if any, made by the parties of record concerning all of the matters considered, shall be provided to the parties of record or their authorized representatives for approval. If no objection to the Report of Stipulations is filed within ten days after the date such Report is mailed, it shall be deemed to be approved. This Report, when approved, shall limit the issues to be heard at the hearing to those not disposed of by admissions or agreements of the parties or their authorized representative and will control the subsequent course of the formal proceeding unless modified at the hearing to prevent manifest injustice.

#### **103-840. Consolidated Hearings.**

The Commission, upon its own motion or upon motion by any party, may order two or more proceedings involving a similar question of law or fact to be consolidated for hearing where rights of the parties or the public interest will not be prejudiced by such procedure.

#### **103-841. Presiding Officer.**

**A. In General.** When evidence is to be taken in a proceeding before the Commission, any Commissioner or any hearing examiner designated by the Commission may preside at the hearing.

**B. Powers and Duties of Presiding Officer.** A presiding officer shall have the duty to conduct full, fair, and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of proceedings, and to maintain order; and shall possess all powers necessary to that end, including the following:

(1) To administer oath and affirmations;

(2) To order subpoenas issued and to provide for other methods of discovery;

(3) To receive evidence and rule upon all objections and motions which do not involve final determination of proceedings;

(4) To take such other action as may be necessary and appropriate to the discharge of duties consistent with the statutory authority or other authorities under which the Commission functions.

**C. Report of Presiding Officer.** When a majority of the Commissioners do not hear a proceeding

or read the record thereof, the presiding officer shall mail to the parties of record a proposed Order. The proposed Order shall contain a statement of facts relied upon in formulating such Order and each issue of fact or law necessary to it. Any party of record will then have ten days in which to file exceptions, present briefs, and file written requests for oral argument to the Commission, if it is desired to do so. If exceptions and briefs are filed within the prescribed time period, the Commission will consider the points raised therein and will issue its Order based upon the record of the formal proceeding, the proposed Order, and the exceptions and briefs filed. If a written request for oral argument is filed, the Commission will establish a date for such oral argument to be heard and will notify all parties of record as to date, time and place for such argument. Thereafter, the Commission will issue its Order based upon the record of the formal proceeding, the proposed Order, any exceptions and briefs filed, and the oral argument presented. If no exceptions, briefs, or written requests for oral argument are received within the prescribed ten days, the Commission will issue its Order based upon the record of the formal proceeding and the proposed Order.

**103-842. Order of Procedure.**

A. Investigations. Upon an investigation initiated by the Office of Regulatory Staff or by request of the Commission, evidence in a proceeding will ordinarily be received in the following order:

- (1) Office of Regulatory Staff;
- (2) Respondent;
- (3) Other parties.

B. Applications and Petitions. Evidence will ordinarily be received upon applications and petitions in the following order:

- (1) Applicant or Petitioner;
- (2) Other parties;
- (3) Office of Regulatory Staff.

C. Complaint. Evidence will ordinarily be received upon complaints in the following order:

- (1) Complainants;
- (2) Respondents;
- (3) Other parties;
- (4) Office of Regulatory Staff.

**103-843. Standard of Conduct.**

All individuals acting in a representative capacity in proceedings before the Commission shall conform to the standards of ethical conduct required of attorneys before the courts of this State. If any such individual does not conform to such standards, the Commission may decline to permit such individual to act in a representative capacity in any proceeding before the Commission.

**103-844. Failure to Attend Designated Hearing.**

A. At the time and place set for hearing, if an applicant, petitioner, or complainant fails to attend personally or through an authorized representative without having obtained a continuance in the manner specified in R. 103-838, the Commission may dismiss the petition, application, or complaint with or without prejudice or may, upon good cause shown, recess such hearing for a further period to be set by the Commission to enable such applicant, petitioner, or complainant to attend.

B. Parties of record or their authorized representative shall be present during all proceedings of any scheduled matter pending before the Commission except upon leave of the presiding officer.

**103-845. Witnesses.**

A. In General. Witnesses shall be examined orally. Witnesses presenting testimony shall be sworn, or shall affirm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them.

B. Cumulative Testimony Restricted. The presiding officer may limit the number of witnesses whose testimony may be merely cumulative. In order to enforce this section, the presiding officer may require a clear statement on the record of the nature of the testimony to be given by any witness proffered.

C. Prepared Statements and Exhibits. A witness may read into the record, as his direct testimony, statements of fact or expressions of his opinion prepared by him, or written answers to interrogatories of counsel. A prepared statement of a witness may also be received as an exhibit. All parties of record, insofar as it is practicable, should prefile with all other parties of record copies of prepared testimony and exhibits which the party of record proposes to use during a hearing. In proceedings involving utilities, the Commission shall require any party and the Office of Regulatory Staff to file copies of testimony and exhibits and serve them on all other parties of record within a specified time in advance of the hearing. In proceedings involving companies other than utilities, the Commission may require any party and staff to file copies of testimony and exhibits and serve them on all other parties of record within a specified time in advance of the hearing. When prepared testimony and exhibits are prefiled with the Commission, twenty-five copies, unless otherwise specified, of such testimony and exhibits must be furnished to the Commission for the use of the Commission and Staff.

**103-846. Evidence.**

A. In General. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the Court of Common Pleas shall be followed. Effect shall be given to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. Reception and Ruling on Proffered Evidence. The presiding officer shall rule on the admissibility of all evidence and shall otherwise control the reception of evidence so as to confine it to the issues in the hearing.

C. Notice of Cognizable Facts. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties of record shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed. Parties shall be afforded an opportunity to contest the material proposed to be noticed.

**103-847. Documentary Evidence.**

A. Commission Files. In case any matter contained in a report or other document on file with the Commission is offered in evidence, such report or other document need not be produced or marked for identification, but may be offered in evidence by specifying the report, document, or file containing the matter so offered.

B. Records in Other Proceedings. If the transcript, or any portion thereof, of another proceeding before the Commission is desired to be introduced into the formal record at a subsequent hearing, a true copy of the portion desired must be presented.

C. Abstracts of Documents. When documents are numerous, such as freight bills or bills of lading, and it is desired to offer in evidence more than a limited number of such documents as typical of the others, an abstract of relevant data of such documents shall be prepared in an orderly manner and offered as an exhibit, giving other parties to the proceeding reasonable opportunity to examine both the abstract and the documents.

**103-848. Exhibits.**

A. SIZE OF EXHIBITS. Except by special permission of the presiding officer, no prepared exhibits offered as evidence shall be of greater size, when folded, than 8 1/2 inches by 11 inches.

B. Copies of Exhibits. When exhibits are offered in evidence, the original shall be furnished to the reporter, and the party offering exhibits should also be prepared to furnish a copy to each Commissioner sitting and the presiding officer, each party of record, and the staff, unless such copies have been previously furnished or the presiding officer directs otherwise. Whenever practicable, the parties should exchange copies of exhibits which they propose to use prior to the hearing.

C. Marking of Exhibits. All exhibits shall be marked numerically in the order of identification.

**103-849. Objections to the Introduction of Evidence.**

A. In General. Any evidence offered in whatever form shall be subject to appropriate and timely objection. When objection is made to the admissibility of evidence, such evidence may be received subject to later rulings by the presiding officer. The presiding officer, in his discretion, either with or without objection, may exclude inadmissible, incompetent, cumulative, or irrelevant evidence, or order the presentation of such evidence discontinued. Parties objecting to the introduction of evidence shall briefly state the grounds of objection at the time such evidence is offered.

B. Offers of Proof. When the presentation of any evidence is objected to and such objection is sustained by the presiding officer, the proponent of the evidence may request that she or he be allowed to present an offer of proof for the formal record. Such offer of proof shall consist of a statement of the substance of the evidence to which objection has been sustained, or if the

excluded evidence consists of evidence in documentary or written form, a copy of such evidence shall constitute the offer of proof.

**103-850. Transcripts.**

A. In General. The Commission will cause to be made a record of all proceedings.

B. Copies of Transcript. Copies of the typewritten transcript of any proceeding may be obtained from the hearing reporters upon request and after payment of the applicable fee.

**103-851. Briefs or Proposed Orders.**

A. Due Date. The presiding officer shall fix the time for filing and service of briefs or proposed orders.

B. Table of Contents and Citations. A brief of more than 20 pages shall contain a table of contents showing arguments presented with page references and a list of citations, alphabetically arranged with references to the pages where they appear.

C. Scope of Briefs or Proposed Orders. Briefs should contain:

- (1) A concise statement of the case;
- (2) An abstract of the evidence relied upon, preferably assembled by subjects;
- (3) Factual and legal arguments, or if a proposed Order, reasons and authorities therefore.

D. Exhibit Reproduction. Exhibits may be reproduced in an appendix to the brief. Analysis of such exhibits should be included in the abstract of evidence under the subjects to which they pertain.

E. Filing and Service. Briefs or proposed orders must be filed with the Chief Clerk and served on parties of record on or before the date fixed. If not filed on or before the date fixed, the brief will not be received without permission from the Commission or the presiding officer. All briefs shall be accompanied by a certificate showing service upon all parties of record or their authorized representatives who appeared at the hearing. Ten copies of each brief shall be furnished for the use of the Commission and staff.

**103-852. Service of Orders.**

All Orders representing final disposition of a proceeding shall be filed with the Chief Clerk who shall serve copies thereof upon all parties of record or their authorized representative. Such service shall be by certified mail, registered mail, or by delivery to the parties or their attorneys, as may be appropriate.

**SUBARTICLE 7**

**COMMISSION ORDERS**

**103-853. Finality of Decision.**



All proceedings before the Commission shall be disposed of by issuance of an Order as defined in R. 103-804K served upon all parties of record.

A. **Effective Date of Orders.** Commission Orders shall take effect and become operative when served by registered or certified mail, unless otherwise designated, and shall continue in force and effect either for a period which may be designated therein or until rescinded, modified or amended by the Commission. If an Order cannot be complied with within prescribed time limit, the Commission may grant such additional time as in its judgment is reasonably necessary to comply with the Order.

B. **Rescinding, Modifying, Amending Order or Decision.** The Commission may rescind, modify, or amend any Order. If the rescission, modification or amendment pertains to other than clerical errors or omissions, parties of record shall be provided notice and opportunity to be heard. Any Order rescinding, modifying or amending a prior Order shall have the same effect as is provided for in original Orders, but no such Order shall affect the legality or validity of any acts done pursuant to the original Order before notice of such rescission, modification, or amendment.

**103-854. Petition for Rehearing or Reconsideration.**

Unless otherwise provided by law, no cause of action shall accrue in any court of competent jurisdiction to vacate or set aside any Order of the Commission, either in whole or in part, unless a petition for rehearing or reconsideration and proof of service are filed with the Commission, and an Order has been issued disposing of the matter.

A. **Form, Contents of Petition for Rehearing or Reconsideration.** All petitions for rehearing or reconsideration shall conform to R. 103-825.

B. **Time limit for filing a petition for rehearing or reconsideration.** Except as otherwise provided by S. C. Code Ann., Section 58-5-330, 58-9-1200, 58-11-550, 58-27-2150 (1976), any party of record may, within 20 days after the date of receipt of Order, petition the Commission for rehearing or reconsideration. A Petition for Reconsideration shall be subject to the same statutory parameters as a Petition for Rehearing.

C. **Action by the Commission.** The Commission must act upon the petition for rehearing or reconsideration within thirty (30) days after such petition is filed except as otherwise provided by S. C. Code Ann., Section 58-5-330, 58-9-1200, 58-11-550, 58-27-2150 (1976). Failure to act within this time period shall be deemed a denial of the relief sought in the petition.

D. **Effect of Filing a Petition.** Filing a petition shall not excuse or delay compliance with an Order issued by the Commission, unless specifically provided by the Commission.

**103-855. Presiding Officer's Proposed Report.**

In the event a presiding officer hears a matter before the Commission, the parties of record may, by stipulation, waive the preparation of a proposed report. Parties of record may file exceptions to the proposed report pursuant to R. 103-841C.

**103-856. Appellate Review.**

A. **In General.** After denial of rehearing, a party of record may appeal a Commission Order to the

appropriate judicial forum pursuant to applicable provisions of law.

B. Stay of Commission Order Pending Review. Except as otherwise provided by law, an appeal from an Order of the Commission shall not of itself stay or suspend operation of the Order of the Commission.

C. Transcript of Testimony. A transcript of the proceeding will be furnished upon request directed to the Commission's hearing reporters, stating the number of copies desired, the person to be billed and the person to whom the transcript is to be sent.

D. Record on Appeal. In any action to review a final decision of the Commission, the record shall consist of all items set forth in R. 103-804E.

E. Stipulations. The Commission, and any party of record appealing a Commission Order, may stipulate that a certain question or questions and a specified portion of the evidence shall be certified to the Court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on view.

F. Priority. Cases appealed from the Commission shall have priority where such is given by statute.

#### **103-857. Penalty Provisions.**

A. In General. Any fine or penalty assessed against any person as allowed by statute, may be imposed in accordance with applicable provisions of law and these rules as established by the Commission.

B. Calculation of Fine or Penalty. The fine or penalty will be incurred and will accrue each day with each day considered a separate breach or violation.

C. Payment of Fine or Penalty. A fine or penalty assessed pursuant to the provisions of these rules shall be paid immediately upon demand by certified check made payable to the State of South Carolina. Failure to honor this demand within ten days shall result in a filing in the appropriate county office or offices, for collection of such fine or penalty as provided by law.

D. Disbursement of Fine or Penalty. All fines or penalties assessed by the Commission shall go into the general funds of the State unless otherwise provided by law.

#### **103-858. General Provisions.**

A. Additional Hearings. The Commission may, in addition to other hearings as provided for by rule or statute, conduct such other hearings as may be required in the administration of the Commission's power and duties.

B. Construction. If any provision of these rules or the application thereof is held invalid, the remainder of the rules or other application of such rules shall not be affected.

#### **103-859. Emergency Procedures.**

A. When it appears to the Office of Regulatory Staff that a utility is planning to disconnect its service to a customer(s) in violation of the Commission's Rules and Regulations and under

circumstances which prevent the full Commission from meeting to address the issue, upon the request of the Office of Regulatory Staff, any one Commissioner may issue an Order on behalf of the Commission restraining and/or enjoining a utility from disconnecting service or requiring the utility to maintain the status quo with its customer(s) until further Order of the Commission. Thereafter, at the next scheduled Commission meeting with proper legal notice, the full Commission shall consider the Order of the single Commissioner and take such action on the single Commissioner's Order as it deems appropriate.

B. When it appears to the Office of Regulatory Staff that a utility has disconnected a customer's (s') service in violation of the Commission's Rules and Regulations and under circumstances which prevent the full Commission from meeting to address the issue, upon the request of the Office of Regulatory Staff , any one Commissioner may issue an Order on behalf of the Commission requiring the utility to reconnect the service and maintain that status quo until further Order of the Commission. Thereafter, at the next scheduled Commission meeting with proper legal notice, the full Commission shall consider the Order of the single Commissioner and take such action on the single Commissioner's Order as it deems appropriate.